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## HISTORY OF MICHIGAN LAW LIBRARIES AND THEIR RELATION TO GENERAL LIBRARIES IN MICHIGAN

By OLIVE C. LATHROP, *Librarian, Detroit Bar Association Library*

[Read at Sixteenth Annual Conference American Association Law Libraries,  
 Detroit, June 27, 1922.]

If President Glasier had not seen fit to tie to the somewhat brief subject of Michigan law libraries the very much larger subject of general libraries in Michigan, being, doubtless, under the impression that I as a woman needed verbal opportunity in excess of the possibilities of the narrower topic, it would not have been necessary to afflict you with quite so much Territorial history. Law libraries in this state are not numerous, there being until 1921 no definite legislation authorizing their formation. Such as there are go back many years for their beginning; still, at that, they do not achieve the hoary age of general libraries which as part of the educational system of the state were conceived, if not perfected, some years before the five so-called "middle" states were carved out of the Northwest Territory. . . .

As early as 1809 Father Richard, a Roman Catholic priest, later a member of the Legislative Council and of the U. S. Congress, earnestly advocated schools and the establishment of at least the beginnings of a public library. Not, how-

ever, until 1817 was there definite legislation of this nature. From 1805 the governor and judges had formed a body somewhat anomalous in that it both legislated and passed upon its own laws. So in 1817 we find them directing that "the persons who have established a library in the city of Detroit and their successors shall be a body corporate . . . the name and style of the corporation shall be the 'City Library of Detroit'." It appears that some interest had been aroused in a library since the Detroit Gazette, the first newspaper in the Territory, announces in August, 1817, the arrival of a purchase of books "which have been transported to this remote spot." The same year witnessed the enactment into law of that unique scheme of Judge Woodward, entitled "An act to establish the Catholepistemiad or University of Michigania." . . . It is a most unusual piece of legislation and will repay investigation but for us, interest lies in the fact that among the pseudo-classical designation of departments are included libraries, and the president and didactors are empowered to establish libraries and to appoint librarians, along with instructors, etc., through the various counties, townships, cities and towns of Michigan. Some of these branch universities were established but I do not find that any libraries, other than the one in Detroit, were started. The foundation of a main building was laid that year, the upper floor of which was for some time given up to the classical school and the library. Silas Farmer in his History of Detroit, intimates that to some extent the city library was merged with the university library and both were administered by the teachers.

From 1823 to 1847 the capital, first of the Territory then of the State, was Detroit from whence in the latter year it was moved to Lansing. . . . The cornerstone of the capitol and courthouse was laid in 1823 but the building was not opened until 1828, shortly after the Legislative Council, which body had succeeded the Governor and Judges, had authorized the establishment of a territorial library, the appointment of a librarian, and the expenditure of certain moneys for books and periodicals. This was our first law library, and the nucleus of our now splendid State Library.

In 1832 the Young Men's Association of Detroit was incorporated. This society was destined to flourish for many years and deserves a word or two since it filled a gap between two city library organizations, and found its ablest exponents among the lawyers of the city. In the first month of its existence the society "obtained possession of a few hundred volumes originally the property of the Detroit City Library Association at that time a defunct corporation." From this quotation it is seen that the collection of books of 1817, after being transported to this "remote spot," had by 1832 fallen into confusion and disuse. The library was reorganized, some additions made and it was opened for two hours on two days a week to the members of the Association and later to other citizens by the payment of a fee. The Association maintained this library for upward of fifty years, moving as the city moved northward, finally owning its building, and having in 1875 about 16,000 volumes. In 1882 the Public Library, which by that time was a growing institution, so overshadowed the Association that the latter dismantled its library, sold some of its books at private sale and gave the rest to the Public Library. Speaking of the personnel of the Association one writer says that for some years preceding 1866 the affairs were in the hands of the young lawyers of the city, and the institution was a "species of gymnasium

for the mental exercise of these youthful and ambitious limbs of the law." The roster of officers and members is full of names now famous in our legal annals.

Michigan was admitted to statehood in 1837, the people having petitioned Congress and adopted their first constitution in October of the previous year. Article X, sec. 4, of this document reads, "As soon as the circumstances of the state will permit the legislature shall provide for the establishment of libraries, one at least in each township, and the money which shall be paid by persons as an exemption from military duty and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws shall be exclusively applied to the support of such libraries." Michigan was thus the first state to include in its Constitution provision for libraries. The present Constitution, adopted in 1907, puts it much more tersely: "Article XI, sec. 14: The legislature shall provide by law for the establishment of at least one library in each township and city, and all fines assessed and collected in the several counties, cities and towns for any breach of the penal laws shall be exclusively applied to the support of said libraries." Between the operation of these two instruments of government lies most of the history of general libraries in Michigan, and I can see so little connection between law libraries and these successive township, school district, township again, city and finally most successful of all county libraries, that I shall rehearse only the briefest outline of that history.

Inspired perhaps by the Ordinance of 1787, and for good or ill, general libraries in Michigan were long considered an adjunct of the public schools, selected for the immature in mind from lists issued by the Superintendent of Public Instruction, kept in school buildings along with the chalk and erasers and of not much more importance, and administered by anyone who felt or assumed an interest. Military exemptions and penal fines were immaterial, and had they not been the public conscience was not sufficiently aroused to the need for libraries to insist upon these funds being legitimately expended. Urged by Superintendent Pierce an early legislature repealed the first township law and provided for school district libraries, which proved no more successful, and which in the war-shadowed years of the '60s declined so disastrously that in 1869 Supt. Hosford says in his report, "The less there is said about libraries the better." In 1881 Supt. Gower recommended township rather than district libraries, and the legislature of that year while consolidating the primary school laws took occasion to once more declare for township libraries, and that law has stood until the last legislature provided for a school district comprising a township, so that we still have both district and township libraries, as well as city public libraries. No longer does the sad, bad condition of Michigan libraries fill the reports of the Superintendent of Public Instruction, although he still keeps a watchful eye on the library moneys. When citizens began to realize that libraries were efficient only as they were well chosen and administered, and that it was an all-round-the-year job to run a library the graph on the library chart took an upward curve and never since that time has it dropped below normal. In the last twenty or thirty years the splendid public library has come to be, in even our smaller cities, the disseminator of information to all ages and classes of citizens. Most of the public libraries include some law books but only the largest have a definite law division. The Detroit Public Library, incorporated in 1865, has among its 600,000 volumes a collection of 2,500 law books housed in its Civics Division.

From the year 1817 when Judge Woodward's state-wide university plan was inaugurated, to 1837 when the University was reorganized at Ann Arbor, little was accomplished for a library. I have told you that one was started, and that with it was for some time housed the city library established in 1817. No records of the University collection have been preserved. In 1869 twelve books were found in a home in Detroit where they had been stored. They were identified as part of this original library and were sent to Ann Arbor where they were incorporated in the present collection. In 1837 the first librarian was appointed, the regents having been thus empowered by the act of reorganization. For the succeeding forty years the library grew as grew the other departments, slowly and unevenly. No definite plan for acquisitions was followed, perhaps no one considered a plan necessary for book purchases. Libraries have often, like Topsy, just growed. In 1877 Raymond C. Davis forsook the sea, accepted the librarianship, and for nearly thirty years proved that a salt water sailor could successfully chart library affairs in this freshwater university. To those who like myself, were privileged to come in contact with his strong personality there remains a feeling of thankfulness that he was so long spared for the enrichment of the collection in his charge and to the honor of the profession he so adorned.

Though a law school was authorized in 1837 students were not enrolled until 1859. At that time the law library, of vest pocket size as compared with the present accessions, contained three hundred and fifty volumes, prominent among which were the then existent ten volumes of Michigan reports. For some years, like the dove from the ark, the law library sought a resting place. Successively it reposed in Main Hall, in the first law building and in the general library. Finally in 1898 it was removed to its present location. Simplicity, not to say meagerness, marked its early abodes. Deal tables and plain wooden chairs encouraged high thinking, while physical warmth in winter was obtained from a plain box stove. In 1880 came the first of many valuable gifts to the law library—that of 800 volumes from the Hon. Richard Fletcher of Boston, who I believe had not seen the university, but who was pleased, as he wrote, "that the books which I have collected in the course of a long professional life will not be scattered but will remain together for the use of the students in the law department of the great university of the Northwest." Many other gifts of money and books have come to the law library, among the most prized being part of the library of Thomas McIntyre Cooley, who occupied the Jay professorship of law, and was on the state Supreme bench from 1864 to 1885. The law library has from its staff contributed to the United States Supreme Court, as well as to the lesser honors of state supreme judgeship and regencies. Justice William Day was a student assistant at Ann Arbor, and Judge Marston was the first law librarian, while Regent Levi Barbour was also a student assistant there. The law library has recently acquired, in collaboration with Harvard, two remarkable foreign libraries, one of 10,000 items of legal philosophy and ecclesiastical law formerly belonging to M. Viollet, the French historian; the other, ordered but not received, made up of works on international and criminal law, formerly owned by M. Lammasch. The library has now about 45,000 volumes and is housed on the second floor of the university law building. The splendid gift to the university of a lawyers' club designed to be the center of legal research for Michigan, will undoubtedly provide the home the law library needs.

Back in 1828, when the Territorial library was established, plow handles had not yet been standardized, but librarian's salaries had, and I think Massachusetts must have set the standard, for Mr. Stebbins has told us in his "History of the Social Law Library of Boston," that its first librarian's salary was \$100 a year "at which price it is hoped a person of suitable qualification can be obtained." So in Michigan Territory, *matre pulchra filia pulchrior*, our Councillors legislated the first librarian into \$100 annual salary, providing that he (they admitted of no feminine possibility) should attend the sessions of the Council to deliver and receive such books as should be required by its members. He was to cause each book to be labeled "Legislative Council of the Territory of Michigan," to bind all pamphlets, and to "preserve" the library with its furniture and other property "due regard being always had to economy in the expenditure connected with his duty." The Executive Journal for July 3, 1828, shows that William B. Hunt was awarded this responsible position, which he held until March 7, 1834. The first catalogue printed in the Council Journal for June 13, 1828, lists 131 volumes, of which number 32 are counted "missing." It is strictly a lawmaker's list of books, being made up of the United States laws, together with those of the various states and territories and of state reports and journals. The thirty-two missing volumes had doubtless been surreptitiously removed by some member for the improvement of his legislative style. In 1830 the Library Committee reports 336 volumes with eleven missing, which indicates either that the legislators were more familiar with their job, or that the librarian, living up to his name of Hunt, had been specially diligent in pursuing delinquent members. In 1830 the Committee also reports that since the beginning of the library the sum of \$318.79 had been expended for the purchase of books and pamphlets.

March 25, 1836, the act providing for a Territorial librarian was repealed, and the library, designated as a state library, was placed under the direction of the Secretary of State for the use of the Governor, officers, and members of the legislature. In 1839, Oren Marsh, then state librarian, transmitted to the legislature a statement of purchases amounting to \$1,060, which may be scanned for items then thought necessary for a state library. They include: Memoirs of British cattle, 1v. \$3.00; Book of allegiance, 1v. \$2.50; Chitty's Pleadings and Practice, 6v. \$24.00; Cooper's Novels, 24v. \$13.00; Johnson's reports, 19v. \$85.00; Angell on Watercourses, 1v. \$2.50; Burton's Anatomy of Melancholy, 2v. \$5.00; Chief Justice Marshall's Decisions, 2v. \$10.00; 2 copies of Carey on Wealth, \$3.25; Dana's Mineralogy, 1v. \$2.75; and Wentworth on Executors, 1v. \$3.00. Prices of such law books as I have quoted are a joy to contemplate at present, and the entries are about equally divided between law items and those for the general collection.

From 1836 to 1850 the State Library, like the University law library, peregrinated about the various departments. From the Secretary of State's office it went to the Governor's chambers, from there to his private secretary's office, from there back to the Secretary of State, and from 1840 to 1850 the latter was *ex-officio* state librarian. In 1844 Lewis Cass, Jr. and others made efforts to have Michigan benefit by the exchanges of documents offered to Congress and the various state legislatures by M. Vattemare of Paris. Our legislature authorized the Governor to effect this exchange, and soon after a large and valuable collection of books, maps, etc., was received from M. Vattemare, some of which went

to the University, and the remainder to the State Library. It is regrettable that our state officials neither replied to this gift, nor endeavored to secure further exchanges.

In 1847 when the capital removed to Lansing there went also the state library, not only the books but book cases and furniture, doubtless the same which back in 1828 Librarian Hunt was instructed to "preserve" with such care. In 1878 the present state house was completed and it was dedicated and occupied in January, 1879. For forty years the west side of the building, a space equal to the second, third and fourth floors has been occupied by the state library, the general library on the second and fourth floors, the law library on the third floor near the Supreme Court chambers. Quiet alcoves, dark wooden cases, galleries over which the eye traveled up to books and yet more books, pictures, busts, maps, it was indeed a restful, studious place, one which Michigan citizens were proud to call "our" state library. However floors will stand only certain strains, wooden cases are capable of only certain expansion and a growing staff must have more commodious quarters, so it has come about that within the last two months the general library has been moved to the new state office building, while the law library, now a collection of nearly 100,000 volumes, has found needed expansion in the old general quarters, leaving the third floor for the Supreme Court offices.

April 2, 1850, an act was passed authorizing the Governor, by and with the consent of the Senate, to appoint a state librarian. Under this act, in force today, we have had ten state librarians, seven men and three women. The first of our women librarians was Mrs. Harriet Tenney, appointed April 5, 1869. Mrs. Tenney has been held the real founder of the state library, since under her devoted care the collection—a few hundred volumes when she took charge—grew to 60,000 volumes. Following her in office was Mrs. Calhoun, librarian for two years, and then on March 3, 1893, came Mrs. Mary C. Spencer. Though a more facile pen than mine is necessary to adequately portray what Mrs. Spencer has done for the state library, and through it for the people of Michigan, I yield to no one in the warmth of my admiration and respect for her administration. For more than ten years it was my privilege to work for and with her, and time has become a well from which I draw this slight appreciation of her keenness of foresight, her singleness of purpose to place Michigan in the forefront of state libraries, her sacrifice of self in that high endeavor, her knowledge of men as well as of books, her personal charm and kindliness. The library is just what its name implies, a *state* library, and though Mrs. Spencer generously accords supreme credit to Mrs. Tenney there is none of the present generation but will feel that the library is what it is because of Mrs. Spencer.

From personal investigation I do not know, but I am reliably informed that many Michigan counties have small collections of law books resident either in the court house or in a central office building, maintained privately by both bench and bar. Few of these may properly be called libraries, which term is now generally restricted to a collection of books, etc., organized in some manner, and administered by some person specially secured for the purpose. As I said earlier in this paper, previous to 1921 we had no legislation authorizing the establishment of county law libraries and no law appropriating public moneys for their support. By Act No. 165, P. A. 1921, the general act for organization and jurisdiction of courts, Sec. 13,432 C. L. 1915, was amended to read as follows: "Sec. 40. . . .

Provided, that in counties having a population of not less than one hundred thousand, and not exceeding five hundred thousand inhabitants . . . the county treasurer shall credit annually all fines, penalties and forfeitures other than those for violation of the penal laws to a fund to be known as the 'county law library fund' up to but not exceeding fifteen hundred dollars in any one year. All moneys so credited to the county law library fund shall be paid by the county treasurer . . . for the purpose of establishing and maintaining a law library for the use of the circuit and probate courts of such county and for the officers of such courts and persons having business in such courts." This act does not by any means go all the way for a county law library law. By the census of 1920 it affects only the counties of Kent, Genesee and Saginaw, and excludes Wayne where is located Detroit, by reason that Wayne has 1,117,706 inhabitants. Of the three counties named the cities which will benefit by this law are Grand Rapids, which already has a law library, Flint and Saginaw. It is yet too soon to know whether the law will operate successfully, but unless there is income from other sources, fifteen hundred dollars a year is not sufficient revenue with which to build up much of a law library if operating costs be taken out of the sum. It is not a law backed by law librarians, but has the appearance of being an attempt to supply a collection of law books from public moneys. I think if the relation between law and general libraries in Michigan were closer law library legislation affecting all counties could be passed, mass formation being as effective in legislative halls as on the battlefield.

The Grand Rapids law library was organized December 8, 1886. The present librarian, Miss Geta V. Godwin, says: "There are over 13,000 volumes in the library at the present time and we have a membership of 85. The judges and law clerks have free use of the library. Our membership fee is \$36.00 a year." The library is housed at 1035 Michigan Trust Building.

In Detroit we have two law schools each of which has a library for its students. The University of Detroit law school library has 14,000 volumes. It has numerous gifts both of money and books. The Detroit College of Law sold its library in 1916 and the present collection of 6,000 volumes has been built up since that time. . . .

Back when the state was new, on May 19, 1838, the Common Council voted to give up a room in the City Hall as a consultation and library room to "the bar of the city of Detroit." I have found no record of any accomplishment in organizing a library. Our definite beginnings were in 1853, when Messrs. Hand, O'Flynn, Lothrop, Walker, Lockwood, Bishop and Grey called a meeting and the Detroit Bar Library Association was organized. This was a stock company with the stock fixed at \$15,000. The library seems to have started off with 600 volumes valued at \$3,000. Whether these were obtained by purchase or were taken over from some earlier collection I have not ascertained. Mr. Sears Stevens was librarian. In 1867 the value of the library had risen to \$8,437.67, subject to a debt of \$2,000 for books. For the purpose of paying these debts and of buying more books additional shares of stock were issued. In 1874 there were 3,162 volumes, valued at \$14,000, and again more shares were ordered to be issued in order that the library might be still further enlarged. In 1902, when the Detroit College of Law acquired it the library contained about 12,000 volumes and was valued at \$40,000. Up to this time the library had suffered the usual fate of being moved

to several successive locations. I will not weary you with them though they are a matter of record. They were within a block or two of its present location in the Penobscot Building, a vicinity long haunted by lawyers. From about 1876, when Miss Helen Norton was made librarian, until 1902, when the library entered upon its second phase, it was open from nine to five on week days, closing at four p. m. on Saturdays. I wish to pay my respects to this indefatigable librarian, who for twenty-six years, with little or no assistance, was able to keep the library running, to keep records which remain today, to act as secretary for the directors of the Association, and to serve the members of the Detroit bar so faithfully.

In 1902, the Detroit College of Law was owned and operated by Mr. Malcolm McGregor, Mr. William Wetherbee and Mr. Loranger. It was a strong and growing school. It had been paying the Bar Library Association \$300 a year for the use of the library, an arrangement which was not entirely satisfactory. So Mr. McGregor and Mr. Wetherbee decided to buy the library and make it a real law school library. Accordingly they arranged with Wayne county officials for a room in the new Court House, with a certain sum to be paid by the county for the use of the library by county officials, and they purchased the library from the Detroit Bar Library Association for \$16,000. The bar of Detroit was admitted to the use of the library by fees built upon a sliding scale of years of admission to the bar of Michigan. Mrs. Hawley was engaged as librarian and was sent to various large law libraries to absorb information on modern methods of administration. I wish I might take the time to tell you in detail the story of those years. It has been most entertainingly told to me by both Mr. Wetherbee and Mr. McGregor, the latter of whom is now upon our library committee. I can, however, only say that mostly Mr. Wetherbee took in the money and Mr. McGregor spent it, building up the library with exceeding wise purchases.

In 1916, the Detroit Bar Association, which organization had existed since 1881, decided to buy the library outright from the school and to make it once more a library for attorneys not for students. Accordingly bonds to the amount of \$32,000 were issued largely through the efforts of Mr. Sidney T. Miller, and the title passed from the school to the Bar Association and the library became the Detroit Bar Association Library, as it is today. A lease for ten years was taken upon the present quarters in the Penobscot Building, and the library was transferred from the Court House to its present location. Miss Josephine O'Flynn was appointed librarian. It is sad to record that after experiencing the difficulties of moving and settling in new quarters, and after working out problems encountered under the new arrangement, Miss O'Flynn was not spared to enjoy the satisfaction of seeing the library successfully advance. She died suddenly in February, 1917, leaving behind the memory of an able executive, one with rare powers of organization. I took up her work in March, 1917, and so far as possible have endeavored to carry on. Our plans for the future are numerous and so far as we can see promise to work out successfully. During the time I have been librarian the membership has increased from five hundred and ninety to nine hundred and sixty. The finances of the Association are actively administered by the Detroit Trust Company. We work under a budget, the amount of which can each year be somewhat increased as we reduce our debt and increase our membership. The library has about 25,000 volumes. In common with most bar libraries we endeavor to make ours a practical, up-to-date, working collection.

In writing this somewhat sketchy outline of library history in Michigan I have tried to show that while general libraries have been far more numerous than law libraries, they have not entirely eclipsed the special collections. We are proud of our State Law Library and of the University Law Library. Together they offer a rich harvest to the gleaner in legal fields. Our law school libraries supply the student's simpler needs, and the bar libraries in Detroit and in smaller cities plan to furnish the busy attorney the law books he wants, when he wants them.

State Librarian George S. Godard of Connecticut sends the following lines written in 1833 by the late Judge Story of Connecticut.

## ADVICE TO A YOUNG LAWYER

"Whene'er you speak, remember every cause  
Stands not on eloquence but on Laws—  
Pregnant in matter, in expression brief,  
Let every sentence stand with bold relief;  
On trifling points, nor time, nor talents waste,  
A sad offence to learning and to taste;  
Nor deal with pompous phrase; nor e'er suppose,  
Poetic flights belong to reasoning prose.  
Loose declamation may deceive the crowd,  
And seem more striking as it grows more loud;  
But sober sense rejects it with disdain,  
As nought but empty, and weak, and vain.  
The froth of words, the school-boy's vain parade  
Of books and cases—all his stock in trade—  
The pert conceits, the cunning tricks and play  
Of low Attorneys, strung in long array,  
The unseemly jest, the petulant reply  
That chatters on, and cares not how, or why,  
Studious, avoid—unworthy themes to scan,  
They sink the speaker, and disgrace the man.  
Like the false lights, by flying shadows cast,  
Scarce seen when present, and forgot, when past.  
Begin with dignity; expound with grace,  
Each ground of reasoning in its time and place;  
Let order reign throughout—each topic touch,  
Nor urge its power too little, or too much.  
Give each strong thought its most attractive view  
In diction clear, and yet severely true.  
And as the arguments in splendor grow  
Let each reflect its lights on all below  
When to the close arrived, make no delays  
By petty flourishes, or verbal plays,  
But sum the whole in one deep solemn strain  
Like a strong current hastening to the main."

# AMERICAN STATE REPORTS AND SESSION LAWS EXCLUSIVE OF SIDE REPORTS

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